

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO**

CHRISTOPHER LACCINOLE,	:	CASE NO. 1:21-cv-02321-SO
	:	
Plaintiff,	:	JUDGE OLIVER
	:	
v.	:	<b>DEFENDANT NATIONAL ENTERPRISE</b>
	:	<b>SYSTEMS, INC.’S RESPONSE TO</b>
NATIONAL ENTERPRISE SYSTEMS,	:	<b>PLAINTIFF’S MOTION TO STRIKE</b>
INC.,	:	<b>DEFENDANT’S AFFIRMATIVE</b>
	:	<b>DEFENSES PURSUANT TO FED. R. CIV.</b>
Defendant.	:	<b>P. 12(f)</b>

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Defendant National Enterprise Systems, Inc. (“NES”), by and through its undersigned counsel, respectfully responds to Plaintiff Christopher Laccinole’s (“Plaintiff”) *Motion to Strike Defendant’s Affirmative Defenses Pursuant to Fed. R. Civ. P. 12(f)* (“Motion to Strike”). While motions like Plaintiff’s Motion to Strike are generally disfavored,<sup>1</sup> NES has addressed the concerns set forth in Plaintiff’s Motion to Strike through the filing of its February 11, 2021, *Amended Answer to Plaintiff’s Complaint* (“Amended Answer”). See Doc. #13, PageID #85-86. In its Amended Answer, NES has removed certain affirmative defenses discussed in Plaintiff’s Motion to Strike and has added additional factual matter to provide further support for those affirmative defenses that were not removed. *Id.* Accordingly, and because NES’ January 21, 2022, *Answer to Plaintiff’s Complaint* is no longer NES’ operative pleading – including the affirmative defenses set forth therein – NES respectfully submits that Plaintiff’s Motion to Strike is moot and requests that this Honorable Court enter an order denying Plaintiff’s Motion to Strike on that basis.

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<sup>1</sup> See *Microsoft Corp. v. Lutian*, 2011 WL 4496531, \*2 (N.D. Ohio Sept. 27, 2011).

Respectfully submitted,

SURDYK, DOWD & TURNER CO., L.P.A.

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**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that a copy of the foregoing, along with this Certificate of Service, was filed this 15<sup>th</sup> day of February, 2022, via the Clerk's CM/ECF system which will provide notice to all counsel of record.

/s/David B. Shaver

David B. Shaver (0085101)